IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 3RD JANUARY 2007 /13TH POUSHA, 1928

WP(C).No. 247 of 2007(D)

PETITIONER:

C.SUNDARESAN,
T.C.2/1857, VARUVILA VEEDU,
KOLATTUKARA, KULATHOOR P.O., THIRUVANANTHAPURAM,
REP. BY HIS NEXT FRIEND, K.R.SATHYAN,
S/O.LATE KOCHU RAMAN, CHINIVILA, THRIPPADAPURAM,
KULATHOOR P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.GOPAKUMAR R.THALIYAL

RESPONDENTS:

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1. UNION BANK OF INDIA,
REP. BY REGIONAL MANAGER,
UNION BANK BHAVAN, M.G.ROAD,
STATUE, THIRUVANANTHAPURAM.

2. THE BRANCH MANAGER,
UNION BANK OF INDIA, ATTIPRA BRANCH,
KULATHOOR, THIRUVANANTHAPURAM.

3. THE AUTHORISED OFFICER,
UNION BANK OF INDIA,
REGIONAL OFFICE, M.G.ROAD,
STATUE, THIRUVANANTHAPURAM.

BY ADV. SRI.A.S.P.KURUP, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.247 of 2007

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Dated this the 3rd day of January, 2007.

JUDGMENT

Heard counsel for the petitioner and Standing Counsel for respondents. The prayer is for instalment facility for clearing arrears of vehicle loan availed by the petitioner who is disabled in an accident. In fact, mental disability of the petitioner is reflected from the fact that W.P. itself is filed by a near friend representing him. The petitioner's wife is stated to be blind and is unable to represent him. The vehicle for which loan is availed is involved in an accident and petitioner is in utter penury is his case. Counsel for the Bank submitted that the amount involved is above Rs.1.5 lakhs and if instalment is considered, it should be granted in such a way that full payment is received within a reasonable time. I do not think there is any point in fixing a higher amount which petitioner cannot pay. The petitioner is stated to have only around 4 ares of land where his family is residing. Considering the financial plight of the petitioner W.P. is disposed of directing the petitioner to make payment as follows. The petitioner will pay rupees ten thousand on or before 31st of this month. Balance arrears will be paid in monthly instalments of rupees three thousand

five hundred each payable on or before the last day of every month commencing from February, 2007. If petitioner commits default in payment of any instalment, the instalment facility will stand vacated and respondents will proceed for recovery of entire arrears. There will be further direction to the second respondent not to charge any default, penal or compounding interest if petitioner clears arrears without default as stated above. Even though instalment facility is granted as above, it would be open to the petitioner to arrange for sale of property or some portion of the land and settle liability and in that event, there will be direction to the Bank to make sacrifices and to grant partial waiver of interest so that liability is settled once for all. Recovery proceedings will be kept in abeyance for payment either in instalments or under settlement as stated above and on default, recovery can be continued.

C.N.RAMACHANDRAN NAIR
Judge

pms